

## Temporary Spousal Maintenance Guidelines Calculator (Includes Low Income Adjustment)

### INSTRUCTIONS

PUT INCOMES IN FIELDS 1 & 2 AND PRESS ENTER.

TO START OVER ----->

### I. INCOME

1. Plaintiff
2. Defendant

#### Income Over 543K

3. Plaintiff
4. Defendant

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### II. CALCULATIONS

#### **Income (up to \$543,000):**

5. Plaintiff
6. Defendant

#### **Basic Calculation:**

7. Calculation A
8. Calculation B
9. Guideline Amount

30% of Payor's Income minus 20% of Payee's Income

40% of Combined Income minus Payee's Income

The Guideline Amount is the Lesser of Line 7 and Line 8; or zero if Line 8 is less than or equal to 0

#### **Low Income Calculation (If Applicable):**

10. Payor Income minus Guideline Amount
11. Low Income Award

Where the guideline amount would reduce the payer's income below the self-support reserve (15,755); the award is the payor's income minus the self-support reserve. If Line 11 equals zero, there is no adjustment for low income.

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### III. AWARD

#### **PAYOR:**

12. Annual Amount
13. Monthly Payment
14. Bi-Weekly Payment
15. Weekly Payment

- **Income Exceeds \$543,000:** If the payor's income exceeds \$543,000, the court considers the 19 factors set forth in DRL §236 Part B(5-A)(C)(2)(A) in determining any additional award of temporary maintenance based on the income above \$543,000. See Page 2 for a list of these factors.
- **Adjustment of Award:** The court may adjust the award if it finds the award is unjust or inappropriate based on consideration of 17 factors set forth in DRL §236 Part B(5-A)(E)(1). See Page 3 for a list of these factors.

**INCOME EXCEEDS \$543,000:** FOR THE PAYOR'S INCOME IN EXCESS OF \$543,000, THE COURT SHALL DETERMINE ANY ADDITIONAL GUIDELINE AMOUNT OF TEMPORARY MAINTENANCE THROUGH CONSIDERATION OF THE FOLLOWING FACTORS:

- 1) THE LENGTH OF THE MARRIAGE;
- 2) THE SUBSTANTIAL DIFFERENCES IN THE INCOMES OF THE PARTIES;
- 3) THE STANDARD OF LIVING OF THE PARTIES ESTABLISHED DURING THE MARRIAGE;
- 4) THE AGE AND HEALTH OF THE PARTIES;
- 5) THE PRESENT AND FUTURE EARNING CAPACITY OF THE PARTIES;
- 6) THE NEED OF ONE PARTY TO INCUR EDUCATION OR TRAINING EXPENSES;
- 7) THE WASTEFUL DISSIPATION OF MARITAL PROPERTY;
- 8) THE TRANSFER OR ENCUMBRANCE MADE IN CONTEMPLATION OF A MATRIMONIAL ACTION WITHOUT FAIR CONSIDERATION;
- 9) THE EXISTENCE AND DURATION OF A PRE-MARITAL JOINT HOUSEHOLD OR A PRE-DIVORCE SEPARATE HOUSEHOLD;
- 10) ACTS BY ONE PARTY AGAINST ANOTHER THAT HAVE INHIBITED OR CONTINUE TO INHIBIT A PARTY'S EARNING CAPACITY OR ABILITY TO OBTAIN MEANINGFUL EMPLOYMENT. SUCH ACTS INCLUDE BUT ARE NOT LIMITED TO ACTS OF DOMESTIC VIOLENCE AS PROVIDED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW;
- 11) THE AVAILABILITY AND COST OF MEDICAL INSURANCE FOR THE PARTIES;
- 12) THE CARE OF THE CHILDREN OR STEPCHILDREN, DISABLED ADULT CHILDREN OR STEPCHILDREN, ELDERLY PARENTS OR IN-LAWS THAT HAS INHIBITED OR CONTINUES TO INHIBIT A PARTY'S EARNING CAPACITY OR ABILITY TO OBTAIN MEANINGFUL EMPLOYMENT;
- 13) THE INABILITY OF ONE PARTY TO OBTAIN MEANINGFUL EMPLOYMENT DUE TO AGE OR ABSENCE FROM THE WORKFORCE;
- 14) THE NEED TO PAY FOR EXCEPTIONAL ADDITIONAL EXPENSES FOR THE CHILD OR CHILDREN, INCLUDING, BUT NOT LIMITED TO, SCHOOLING, DAY CARE AND MEDICAL TREATMENT;
- 15) THE TAX CONSEQUENCES TO EACH PARTY;
- 16) MARITAL PROPERTY SUBJECT TO DISTRIBUTION PURSUANT TO SUBDIVISION FIVE OF THIS PART;
- 17) THE REDUCED OR LOST EARNING CAPACITY OF THE PARTY SEEKING TEMPORARY MAINTENANCE AS A RESULT OF HAVING FOREGONE OR DELAYED EDUCATION, TRAINING, EMPLOYMENT OR CAREER OPPORTUNITIES DURING THE MARRIAGE;
- 18) THE CONTRIBUTIONS AND SERVICES OF THE PARTY SEEKING TEMPORARY MAINTENANCE AS A SPOUSE, PARENT, WAGE EARNER AND HOMEMAKER AND TO THE CAREER OR CAREER POTENTIAL OF THE OTHER PARTY; AND
- 19) ANY OTHER FACTOR WHICH THE COURT SHALL EXPRESSLY FIND TO BE JUST AND PROPER.

**ADJUSTMENT OF AWARD:** THE COURT MAY ADJUST AN AWARD IF IT FINDS THE AWARD IS UNJUST OR INAPPROPRIATE BASED ON CONSIDERATION OF THE FOLLOWING FACTORS:

- 1) THE STANDARD OF LIVING OF THE PARTIES ESTABLISHED DURING THE MARRIAGE;
- 2) THE AGE AND HEALTH OF THE PARTIES;
- 3) THE EARNING CAPACITY OF THE PARTIES;
- 4) THE NEED OF ONE PARTY TO INCUR EDUCATION OR TRAINING EXPENSES;
- 5) THE WASTEFUL DISSIPATION OF MARITAL PROPERTY;
- 6) THE TRANSFER OR ENCUMBRANCE MADE IN CONTEMPLATION OF A MATRIMONIAL ACTION WITHOUT FAIR CONSIDERATION;
- 7) THE EXISTENCE AND DURATION OF A PRE-MARITAL JOINT HOUSEHOLD OR A PRE-DIVORCE SEPARATE HOUSEHOLD;
- 8) ACTS BY ONE PARTY AGAINST ANOTHER THAT HAVE INHIBITED OR CONTINUE TO INHIBIT A PARTY'S EARNING CAPACITY OR ABILITY TO OBTAIN MEANINGFUL EMPLOYMENT. SUCH ACTS INCLUDE BUT ARE NOT LIMITED TO ACTS OF DOMESTIC VIOLENCE AS PROVIDED IN SECTION FOUR HUNDRED FIFTY-NINE-A OF THE SOCIAL SERVICES LAW;
- 9) THE AVAILABILITY AND COST OF MEDICAL INSURANCE FOR THE PARTIES;
- 10) THE CARE OF THE CHILDREN OR STEPCHILDREN, DISABLED ADULT CHILDREN OR STEPCHILDREN, ELDERLY PARENTS OR IN-LAWS THAT HAS INHIBITED OR CONTINUES TO INHIBIT A PARTY'S EARNING CAPACITY OR ABILITY TO OBTAIN MEANINGFUL EMPLOYMENT;
- 11) THE INABILITY OF ONE PARTY TO OBTAIN MEANINGFUL EMPLOYMENT DUE TO AGE OR ABSENCE FROM THE WORKFORCE;
- 12) THE NEED TO PAY FOR EXCEPTIONAL ADDITIONAL EXPENSES FOR THE CHILD OR CHILDREN, INCLUDING, BUT NOT LIMITED TO, SCHOOLING, DAY CARE AND MEDICAL TREATMENT;
- 13) THE TAX CONSEQUENCES TO EACH PARTY;
- 14) MARITAL PROPERTY SUBJECT TO DISTRIBUTION PURSUANT TO SUBDIVISION FIVE OF THIS PART;
- 15) THE REDUCED OR LOST EARNING CAPACITY OF THE PARTY SEEKING TEMPORARY MAINTENANCE AS A RESULT OF HAVING FOREGONE OR DELAYED EDUCATION, TRAINING, EMPLOYMENT OR CAREER OPPORTUNITIES DURING THE MARRIAGE;
- 16) THE CONTRIBUTIONS AND SERVICES OF THE PARTY SEEKING TEMPORARY MAINTENANCE AS A SPOUSE, PARENT, WAGE EARNER AND HOMEMAKER AND TO THE CAREER OR CAREER POTENTIAL OF THE OTHER PARTY; AND
- 17) ANY OTHER FACTOR WHICH THE COURT SHALL EXPRESSLY FIND TO BE JUST AND PROPER.